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Proposed Charter

FOR THE

City of Dayton

Prepared and Proposed by the Charter Commission

Election Tuesday, August 12, 1913

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Statement of Charter Commission

To the Voters of Dayton, Ohio:

We submit herewith for your consideration a proposed charter, framed under authority and in conformity with the constitution and laws of the State of Ohio.

In the preparation of the charter the Commission has sought information and suggestions from many sources. A number of public meetings have been held at which general discussion was had of what provisions the charter should contain. Charters of other cities have been carefully examined and considered. The Commission has incorporated in this charter all of the provisions which it believed would furnish the best charter for our city.

We have taken a step in advance of the Commission governed cities and provided a remedy for the generally acknowledged defect of such forms. We have provided a chief administrative officer named "The City Manager," whose duty it shall be to supervise and control the conduct and operations of all officers and employes of the city and to manage the affairs of the city in an efficient and economical manner. We are convinced that this centralization of administrative authority will produce business-like methods in city government and fix responsibility for official action that will result in great benefit.

To enable the voters to obtain a comprehensive view of the prominent provisions of this charter, we submit the following brief outline:

The Commission.

The legislative functions are delegated to a Commission of five citizens, elected at large by the people and any and all of whom are subject to recall at all times. At the first election three Commissioners will be elected for four years and two for two years, and thereafter their successors shall be elected for four years. In this manner we insure a Commission at all times familiar with the operation of the city government.

The City Manager.

A competent, experienced, trained and capable person selected on account of his peculiar fitness and ability to manage the affairs of the city.

Nominations and Elections.

(1) Party politics are eliminated. No party designations will appear on the ballot.

(2) Ward lines are abolished. The city is considered as a unit, insuring to all parts of the city equal representation and consideration.

(3) The short ballot principle has been adopted.

(4) Elective officers and the City Manager are subject to recall by the people at all times.

Initiative and Referendum.

Provision has been made whereby the people may initiate legislation and compel the submission to them of any legislation passed or refused to be passed by the Commission. This insures the control of all legislation to the people.

Civil Service Board.

A civil service board of three will be appointed by the Commission for terms of six years, one appointed every two years. The Commission will have authority to see that all officers and employees are appointed on the basis of merit and fitness alone, and will keep a record of their efficiency in the service.

Administrative Departments.

The various functions of the government are subdivided into departments all under the control and jurisdiction of the City Manager. The subdivision is logical and systematic and allows the greatest latitude for the efficient discharge of the functions of the government. Each department will be in charge of a director selected by the City Manager on account of his fitness, integrity and ability.

Accounting and Finance.

In creating the Department of Finance, great care has been exercised to provide for the institution of the best and most modern business methods of accounting. All of the financial affairs of the city are consolidated in this one department. Principles of accounting are laid down and the duty imposed on the Director of Finance to establish them for all administrative departments. An adequate system of accounting, such as herein provided, will prevent the waste of public funds and insure an accurate record of all municipal transactions. An independent continuous audit by certified public accountants, under the direction of the Commission, is also provided, as well as complete compulsory publicity of all financial affairs.

Public Welfare.

A department has been created for the purpose of developing and caring for the welfare of the people. We believe the welfare of the people is as important as the care of their property. Public health, parks and playgrounds, charities and cor-

rections, and recreation are gathered together in this department.

Legal Advertising.

The charter provides a radical departure from the present custom in this regard. It is optional with the Commission to publish all legal notices in a paper published by the city or in a daily newspaper of general circulation. If the latter method is adopted, it shall be done by contract let only after competitive bidding.

Franchises

No exclusive grants are permitted. The Commission may, by ordinance, grant franchises, but all ordinances making grants or renewals shall reserve to the city the power to regulate, the right to terminate, and to purchase the property of the utility.

City Purchasing Agent.

All purchases made by the city are made by an agent appointed for that purpose, who shall purchase supplies after competitive bidding. This will provide an economical and efficient system for purchase of supplies.

In addition to the foregoing provisions, the charter provides:

1. A simplified election system.
2. Elective officials are directly responsible to the people.
3. Responsibility is definitely fixed.
4. An adequate system of accounting is established.
5. The rights of the city in matters relating to franchises and utilities are carefully guarded.
6. The merit system in appointments to public office is assured.
7. Full publicity of public records is provided.
8. Public depositories and interest on public funds is assured.
9. The manner of assessments for improvements has been clearly set forth.
10. The Commission is given authority to settle damage claims without unnecessary cost.
11. An eight-hour law for public work may be provided.
12. Improvements may be made by contract or by direct labor.

These and other features will provide a workable, simplified, and well-balanced system of government.

The members of the Commission have adopted this charter by unanimous vote, believing that if it is adopted by the peo-

ple, it will provide for Dayton an adequate, economical, and efficient form of government, and one that will be responsive to every demand of the people. The adoption of this charter by the voters will insure to the city a form of government devised to suit its particular needs. If adopted, we will not be compelled to continue under a form of government provided by the General Assembly, suitable to no particular city in the state, and which is antiquated, cumbersome, and wholly unsuited to the needs of a modern, progressive city like Dayton.

The people of Dayton must choose between the present form of government and the form as expressed in this charter.

THE CHARTER COMMISSION.

THE CHARTER of the CITY OF DAYTON

Powers of City.

Section 1. The inhabitants of the city of Dayton, as its limits now are, or may hereafter be, shall be a body politic and corporate by name The City of Dayton, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property in fee simple or lesser interest or estate by purchase, gift, devise, appropriation, lease, or lease with the privilege to purchase for any municipal purpose; may sell, lease, hold, manage, and control such property, and make any and all rules and regulations by ordinance or resolution which may be required to carry out fully all the provisions of any conveyance, deed, or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may acquire, construct, own, lease and operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all the subjects or objects which the city may lawfully tax; may borrow money on the faith and credit of the city by the issue or sale of bonds or notes of the city; may appropriate the money of the city for all lawful purposes; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements; may levy and collect assessments for local improvements; may license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate the construction, height, and the material used in all buildings, and the maintenance and occupancy thereof; may regulate and control the use, for whatever purposes, of the streets and other public places; may create, establish, abolish and organize offices and fix the salaries and compensations of all officers and employes; may make and enforce local police, sanitary and other regulations; and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the city, and for the performance of the functions thereof. The city shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Ohio; and all

such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this charter, or when not prescribed herein, in such manner as shall be provided by ordinances or resolutions of the Commission.

Section 2. The enumeration of particular powers by this charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city shall have, and may exercise, all other powers which, under the constitution and laws of Ohio, it would be competent for this charter specifically to enumerate.

Form of Government.

Section 3. General Description: The form of government provided in this article shall be known as the "Commission-Manager Plan," and shall consist of a commission of five citizens, who shall be elected at large in manner hereinafter provided. The Commission shall constitute the governing body with powers as hereinafter provided to pass ordinances, adopt regulations, and appoint a chief administrative officer to be known as the "City Manager," and exercise all powers hereinafter provided.

NOMINATION AND ELECTION OF COMMISSIONERS.

Section 4. All Commissioners shall serve for a term of four years and until their successors are elected and have qualified. Except that at the first election the three candidates having the highest number of votes shall serve for four years, and the two candidates having the next highest number of votes shall serve for two years.

Vacancies.

Section 5. Vacancies in the Commission shall be filled by the Commission for the remainder of the unexpired term, but any vacancy resulting from a recall election shall be filled in the manner provided in such case.

Qualifications.

Section 6. Members of the Commission shall be residents of the city and have the qualifications of electors therein. Commissioners and other officers and employes shall not hold any other public office or employment except in the State Militia, and shall not be interested in the profits or emoluments of any contract, job, work or service for the municipality. Any Commissioner who shall cease to possess any of the qualifications herein required shall forthwith forfeit his

office, and any such contract in which any member is or may become interested may be declared void by the Commission.

No Commissioner or other officer or employe of said city shall accept any frank, free ticket, passes or service directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor. Such prohibition of free service shall not apply to policemen or firemen in uniform or wearing their official badges, where same is provided by ordinance.

ELECTION PROVISIONS.

Nomination by Petition.

Section 7. A. Candidates for Commissioners under the provisions of this charter shall be nominated by a primary election, which shall be held the first Tuesday after the first Monday in September, 1913, and thereafter on the second Tuesday of August of the odd numbered years. The name of any elector of the city shall be printed upon the primary ballot when a petition in the form hereinafter prescribed shall have been filed in his behalf with the Board of Deputy State Supervisors of Election, and such petition shall have been signed by at least two per cent of the total number of registered voters in the municipality.

B. The signatures to a nominating petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place on the petition after his name his place of residence by street and number.

C. Petition papers shall be in substantially the following form:

Form of Petition Paper.

We, the undersigned, hereby present _____, whose residence is _____, Dayton, Ohio, as a candidate for nomination to the office of Commissioner, to be voted upon at the primary election, to be held on the _____ day of _____, 19____; and we individually certify that we have not signed similar petitions greater in number than the number of Commissioners to be chosen at the next general municipal election.

Name _____

Street and Number _____

(Space for Signatures)

Montgomery County, }
State of Ohio, } ss:

-----, being duly sworn, deposes and says that he is the circulator of the foregoing petition paper containing-----signatures, and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be.

(Signed)-----

Subscribed and sworn to before me this-----day
of-----, 19---.

Notary Public.

This petition, if found insufficient, shall be returned to -----at No.-----Street, Dayton, Ohio.

D. All nominating papers comprising a petition shall be assembled and filed with the election authorities, as one instrument, at least thirty (30) days prior to the date of holding the primary election with respect to which such petition is filed; except as hereinafter provided.

E. Any person whose name has been submitted for candidacy by any such petition shall file his acceptance of such candidacy with the election authorities not later than twenty-five (25) days before the day of the primary election, and in the absence of such acceptance the name of the candidate shall not appear on the ballot. Except that at the first primary election held under this charter such petition and such acceptance shall be filed at least ten (10) days before such primary election, and publication for bids for printing the ballots for such first primary election hereunder shall be dispensed with by said Board of Elections, and notices by mail instead shall be sent to all printing offices in the county as is provided by law.

Form of Ballots.

Section 8. All ballots used in all elections held under authority of this charter shall be without party mark or designation.

Except that the crosses here shown shall be omitted, and that in place of the names of persons here shown there shall appear the names of persons who are candidates for nomination, the primary ballots shall be substantially as hereinafter designated. Primary, Regular and Special Election Ballots provided under authority of this charter for the nomination or election of commissioners shall not bear the name of any person or persons or any issue other than those candidates for nomination or election to the office of Commissioner.

Form of Primary Ballot—Primary Election

Section 9. Vote for (insert here a number equal to the number of persons to be elected to the office of Commissioner at the next regular municipal election).

If you wrongly mark, tear or deface this ballot, return it and obtain another.

Candidates for Nomination to the Office of Commissioner

X	John Doe
X	Richard Doe
X	Henry Smith
X	George Jones
X	James Richards

The candidates for nomination to the office of Commissioner who shall have received the greatest vote in such primary election shall be placed on the ballot at the next regular municipal election, in number not to exceed double the number of vacancies in the Commission to be filled.

Ballots for regular municipal elections shall be similar in form to those of primary ballots, except that the words "Regular Municipal Election" shall appear at the top of each ballot, and immediately over the names of the regularly nominated candidates for the office of Commissioner shall appear the words, "For Commissioner."

Rotation of Names on Ballot.

Section 10. The names of candidates on all ballots used in any election held under the authority of this charter shall be printed in rotation, as follows:

The ballot shall be printed in as many series as there are candidates for the office of Commissioner. The whole number of ballots to be printed shall be divided by the number of series and the quotient so obtained shall be the number of ballots in each series. In printing the first series of ballots the names of candidates shall be arranged in alphabetical order. After printing the first series the first name shall be placed last and the next series printed, and the process shall be repeated until each name in the list shall have been printed an equal number of times. The ballots so printed shall then be combined in tablets, so as to have the fewest possible ballots having the same order of names printed thereon together in the same tablet.

Counting the Votes.

Section 11. At any regular municipal election held under the provision of this charter the candidates for the office of Commissioner in number equal to the vacancies to be filled, who shall have received the greatest number of votes cast, shall be declared elected. A tie between two or more candidates for the office of Commissioner shall be decided by lot under the direction of the election authorities, as provided by General Election Laws of the State of Ohio.

Regular and Special Elections.

Section 12. A regular election for the choice of Commissioners provided for in this charter shall be held on the first Tuesday after the first Monday in November, 1913, and on the first Tuesday after the first Monday in November in each second year thereafter. Elections so held shall be known as regular municipal elections. All other elections held under the provisions of this charter, excepting those for the nomination of candidates for the office of Commissioner, shall be known as special municipal elections. All elections shall be conducted and the results canvassed and announced by the election authorities prescribed by General Election Laws, and, except as otherwise provided herein, the General Election Laws shall control in all such elections.

Recall Elections.

Section 13. Any or all of the Commissioners, or the City Manager, provided for in this charter may be removed from office by the electors. The procedure to effect such removal shall be as follows:

A petition demanding that the question of removing such officer or officers be submitted to the electors shall be filed with the clerk of the Commission.

Such petition for the recall of any or all of the Commissioners or the City Manager shall be signed by at least twenty-five (25) per cent of the total number of registered voters in the municipality.

The signatures to such petitions need not be appended to any one paper.

Section 14. Petition papers shall be procured only from the Clerk of the Commission, who shall keep a sufficient number of such blank petitions on file for distribution as herein provided. Prior to the issuance of such petition papers an affidavit shall be made by one or more qualified electors and filed with the Clerk of the Commission, stating the name and office of the officer or officers sought to be removed. The Clerk of the Commission, upon issuing any such petition papers to an elector, shall enter in a record, to be kept in his

office, the name of the elector to whom issued, the date of such issuance, and the number of papers issued, and shall certify on such papers the name of the elector to whom issued and the date issued. No petition papers so issued shall be accepted as part of the petition unless it bears such certificate of the Clerk of the Commission and unless it be filed as provided herein.

Section 15. Each signer of a recall petition shall sign his name in ink or indelible pencil and shall place thereon after his name his place of residence by street and number. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper was made in his presence and is the genuine signature of the person whose name it purports to be.

Section 16. All papers comprising a recall petition shall be assembled and filed with the Clerk of the Commission as one instrument within thirty (30) days after the filing with the Clerk of the Commission of the affidavit stating the name and office of the officer sought to be removed.

Section 17. The Clerk of the Commission shall at once submit the recall petition to the Commissioners and shall notify the officer sought to be recalled of such action. If the official whose removal is sought does not resign within five (5) days after such notice, the Commission shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than forty (40) nor more than sixty (60) days after the petition has been presented to the Commission, at the same time as any other general or special election held within such period; but if no such election be held within such period, the Commission shall call a special recall election to be held within the time aforesaid.

Section 18. The ballots at such recall elections shall conform to the following requirements:

With respect to each person whose removal is sought the question shall be submitted, "Shall (Name of person) be removed from the office of (Name of office) by recall?"

Immediately following each such question there shall be printed on the ballots the two propositions, in the order set forth:

For the recall of (Name of person).

Against the recall of (Name of person).

Immediately to the left of the proposition shall be placed a square in which the electors, by making a cross mark (X), may vote for either of such propositions. Under said questions shall be placed the names of candidates to fill the vacancy or vacancies. The name of the officer or officers whose re-

moval is sought shall not appear on the ballot as a candidate or candidates to succeed himself or themselves.

Before any such recall election for the removal of Commissioners shall be had, there shall be nominated candidates to fill the vacancy or vacancies, the nominations therefor to be made by petition, which petition for each candidate shall be signed by at least five (5) per cent of the registered electors of the City of Dayton, and shall be filed with the election authorities of the City of Dayton at least thirty (30) days prior to the date fixed for holding such recall election; and the form and requirements for said petition and acceptance by candidates shall be the same as hereinbefore provided in the case of primary nominations. In the event of the recall of the City Manager, his successor shall be appointed by the Commission.

Section 19. Should a majority of the votes cast at a recall election be against the recall of the officer named on the ballot, such officer shall continue in office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at a recall election shall be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office.

Section 20. No recall petition shall be filed against a Commissioner or the City Manager within six (6) months after he takes his office, nor in case of an officer re-elected in a recall election until six (6) months after that election.

INITIATIVE, REFERENDUM AND PROTEST

Section 21. Any proposed ordinance may be submitted to the Commission by petition signed by at least ten (10) per cent of the total number of registered voters in the municipality. All petition papers, circulated with respect to any proposed ordinance, shall be uniform in character and shall contain the proposed ordinance in full, and have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purposes hereinafter named.

Section 22. Each signer of a petition shall sign his name in ink or indelible pencil and shall place on the petition paper after his name his place of residence by street and number. The signatures to any such petition paper need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the affiant.

Section 23. All papers comprising a petition shall be assembled and filed with the Clerk of the Commission as one instrument, and when so filed the Clerk of the Commission shall submit the proposed ordinance to the Commission at its next regular meeting. Provision shall be made for public hearings upon the proposed ordinance.

Section 24. The Commission shall at once proceed to consider it and shall take final action thereon within thirty (30) days from the date of submission. If the Commission rejects the proposed ordinance, or passes it in a form different from that set forth in the petition, the committee of the petitioners may require that it be submitted to a vote of the electors in its original form or that it be submitted to a vote of the electors with any proposed change, addition, or amendment, if a petition for such election is presented bearing additional signatures of fifteen (15) per cent of the electors of the city.

Section 25. When an ordinance proposed by petition is to be submitted to a vote of the electors, the committee of the petitioners shall certify that fact and the proposed ordinance to the Clerk of the Commission within twenty (20) days after the final action on such proposed ordinance by the Commission.

Section 26. Upon receipt of the certificate and certified copy of the proposed ordinance, the Clerk shall certify the fact to the Commission at its next regular meeting. If an election is to be held not more than six months nor less than thirty (30) days after the receipt of the Clerk's certificate by the Commission, such proposed ordinance shall then be submitted to a vote of the electors. If no such election is to be held within the time aforesaid, the Commission shall provide for submitting the proposed ordinance to the electors at a special election.

Section 27. The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on and below it the two propositions, "For the Ordinance" and "Against the Ordinance." Immediately at the left of each proposition there shall be a square in which, by making a cross (X), the voter may vote for or against the proposed ordinance. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city.

Section 28. Proposed ordinances for repealing any existing ordinance or ordinances, in whole or in part, may be submitted to the Commission as provided in the preceding sections for initiating ordinances. Initiated ordinances adopted by the electors shall be published and may be amended or repealed by the Commission as in the case of other ordinances.

Section 29. No ordinance passed by the Commission, unless it be an emergency measure, shall go into effect until

thirty (30) days after its final passage by the Commission. If, at any time within said thirty (30) days, a petition signed by twenty-five (25) per cent of the total number of registered voters in the municipality be filed with the Clerk of the Commission requesting that any such ordinance be repealed or submitted to a vote of the electors, it shall not become operative until the steps indicated herein have been taken.

Section 30. The Clerk of the Commission shall deliver the petition to the Commission, which shall proceed to reconsider the ordinance. If, upon such reconsideration, the ordinance be not entirely repealed, the Commission shall provide for submitting it to a vote of the electors, and in so doing the Commission shall be governed by the provisions of Sections 25, 26 and 27 hereof, respecting the time of submission and of manner of voting on ordinances proposed to the Commission by petition. If, when submitted to a vote of the electors, any such ordinance be not approved by a majority of those voting thereon, it shall be deemed repealed.

Section 31. Referendum petitions need not contain the text of the ordinances, the repeal of which is sought, but shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the Commission. Ballots used in referendum elections shall conform in all respects to those provided for in Section 27 of this charter.

Ordinances.

Section 32. Ordinances submitted to the Commission by initiative petition and passed by the Commission without change, or passed in an amended form and not required to be submitted to a vote of the electors by the committee of the petitioners, shall be subject to the referendum in the same manner as other ordinances.

Conflicting Ordinances.

Section 33. If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall prevail.

Referendum on Emergency Measures.

Section 34. Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such measure so repealed shall be deemed sufficient authority for payment in accordance with the ordinance, of any expense incurred previous to the referendum vote thereon.

Referendum—Preliminary Action.

Section 35. In case a petition be filed requiring that a measure passed by the Commission providing for an expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of a contract for such improvement, may be taken prior to the election.

Mayor

Section 36. The Mayor shall be that member of the Commission who, at the regular municipal election at which the three Commissioners were elected, received the highest number of votes, except that at the first regular municipal election held under this charter the Mayor shall be the Commissioner receiving the highest number of votes. In case two candidates receive the same number of votes, one of them shall be chosen Mayor by the remaining members of the Commission. In event of a vacancy in the office of Mayor, the remaining members of the Commission shall choose his successor for the unexpired term from their own number. The Mayor shall be the presiding officer, except that in his absence a president pro tempore may be chosen. The Mayor shall exercise such powers conferred and perform all duties imposed upon him by this charter, the ordinances of the city and the laws of the state. He shall be recognized as the official head of the city by the courts for the purpose of serving civil processes, by the Governor for the purposes of the military law, and for all ceremonial purposes.

Section 37. In the event the Commissioner who is acting as Mayor shall be recalled, the remaining members of the Commission shall select one of their number to serve as Mayor for the unexpired term. In the event of the recall of all of the Commissioners, the person receiving the highest number of votes at the election held to determine their successors shall serve as the Mayor.

Salaries and Attendance

Section 38. The salary of each Commissioner shall be \$1200 per annum, except that of the Mayor, who shall receive \$1800 per annum.

For each absence of a Commissioner from a regular meeting of the Commission, unless authorized by a majority vote of all members thereof, there shall be deducted a sum equal to one per cent (1%) of the annual salary of such member. Absence from five (5) consecutive regular meetings shall operate to vacate the seat of a member unless such absence be authorized by the Commission.

Meetings of the Commission

Section 39. At ten o'clock A. M. on the first Monday in January, following a regular municipal election, the Commission shall meet at the usual place for holding the meetings of the legislative body of the city, at which time the newly-elected Commissioners shall assume the duties of their office. Thereafter the Commissioners shall meet at such times as may be prescribed by ordinance or resolution, except that they shall meet not less than once each week. The Mayor, any two members of the Commission, or the City Manager, may call special meetings of the Commission upon at least twelve (12) hour's written notice to each member of the Commission, served personally on each member or left at his usual place of residence. All meetings of the Commission shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The Commission shall determine its own rules and order of business and shall keep a journal of its proceedings.

Legislative Procedure

Section 40. The Commission shall be judge of the election and qualifications of its members. A majority of all members elected shall constitute a quorum to do business. The affirmative vote of a majority of the members elected to the Commission shall be necessary to adopt any ordinance or resolution. The vote upon the passage of all ordinances and upon the adoption of such resolutions as the Commission by its rules shall prescribe, shall be taken by "Yea" and "Nay" and entered upon the journal. Every ordinance or resolution passed by the Commission shall be signed by the Mayor or two members, and filed with the Clerk within two days and by him recorded.

Ordinance Enactment

Section 41. Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances passed by the Commission shall be, "Be it ordained by the Commission of the City of Dayton." The enacting clause of all ordinances submitted by the initiative shall be, "Be it ordained by the people of the City of Dayton."

No ordinance, unless it be declared an emergency measure, shall be passed on the day on which it shall have been introduced, unless so ordered by an affirmative vote of four (4) members of the Commission.

No ordinance or resolution or section thereof shall be revised or amended, unless the new ordinance or resolution contain the entire ordinance or resolution or section revised or amended and the original ordinance, resolution, section or sections so amended shall be repealed.

Emergency Measures

Section 42. All ordinances and resolutions shall be in effect from and after thirty (30) days from the date of their passage by the Commission, except as otherwise provided in this charter. The Commission may, by an affirmative vote of not less than four members, pass emergency measures to take effect at the time indicated therein. An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health or safety, or providing for the usual daily operation of a municipal department, in which the emergency is set forth and defined in a preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no measure making a grant, renewal or extension of a franchise or other special privilege, or regulating the rate to be charged for its services by any public utility, shall ever be passed as an emergency measure.

Clerk

Section 43. The Commission shall choose a Clerk and such other officers and employees of its own body as are necessary. The Clerk shall be known as the Clerk of the Commission and shall keep records and perform such other duties as may be required by this charter or the Commission.

Audit and Examination

Section 44. The Commission shall cause a continuous audit to be made of the books of account, records and transactions of the administrative departments of the city. Such audit, during each fiscal year shall be made by one or more certified public accountants who hold a certificate issued by the State Board of Accountancy of Ohio or by a state maintaining an equal standard of professional requirements, which entitles the holder of such certificate to an Ohio certificate. The duties of the auditor or auditors so appointed shall include the certifications of all statements required under section 78 of this charter. Such statements shall include a general balance sheet, exhibiting the assets and liabilities of the city, supported by departmental schedules, and schedules for each utility publicly owned or operated; summaries of income and expenditure, supported by detailed schedules; and also comparisons, in proper classifications, with the last previous year. The report of such audit for each previous year

shall be printed and a copy thereof furnished to the Ohio State Bureau of Inspection and Supervision of Public Offices, to each member of the Commission and to each citizen who may apply therefor; and a condensed summary thereof shall be published in the manner provided by the Commission.

Publication

Section 45. Every ordinance or resolution upon its final passage shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the presiding officer and the clerk of the Commission. Every ordinance or resolution shall be published at least once within ten (10) days after its final passage in such manner as is provided by this charter.

Investigation by Commission

Section 46. The Commission, or any committee thereof duly authorized by the Commission so to do, may investigate the financial transactions of any office or department of the city government and the official acts and conduct of any city official, and by similar investigations may secure information upon any matter. In conducting such investigations the Commission, or any committee thereof, may compel the attendance of witnesses and the production of books, papers and other evidence, and for that purpose may issue subpoenas or attachments which shall be signed by the presiding officer of the Commission or the chairman of such committee, as the case may be, which may be served and executed by any officer authorized by law to serve subpoenas and other process. If any witness shall refuse to testify to any facts within his knowledge or to produce any papers or books in his possession, or under his control, relating to the matter under inquiry, before the Commission, or any such committee, the Commission shall have the power to cause the witness to be punished as for contempt. No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such inquiry, but such testimony shall not be used against him in any criminal prosecution except for perjury committed upon such inquiry.

City Manager

Section 47. The Commission shall appoint a City Manager who shall be the administrative head of the municipal government and shall be responsible for the efficient administration of all departments. He shall be appointed without regard to his political beliefs and may or may not be a resident of the City of Dayton when appointed. He shall hold office at the will of the Commission and shall be subject to recall as herein provided.

Section 48. Powers and Duties of the City Manager. The powers and duties of the City Manager shall be

- (a) To see that the laws and ordinances are enforced.
- (b) To appoint and, except as herein provided, remove all directors of departments and all subordinate officers and employes in the departments in both the classified and unclassified service; all appointments to be upon merit and fitness alone, and in the classified service all appointments and removals to be subject to the civil service provisions of this charter;
- (c) To exercise control over all departments and divisions created herein or that may be hereafter created by the Commission;
- (d) To attend all meetings of the Commission with the right to take part in the discussion but having no vote;
- (e) To recommend to the Commission for adoption such measures as he may deem necessary or expedient;
- (f) To keep the Commission fully advised as to the financial condition and needs of the city; and
- (g) To perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the Commission.

Salary

Section 49. The City Manager shall receive such salary as may be fixed by ordinance of the Commission.

Investigations by the City Manager

Section 50. The City Manager may without notice cause the affairs of any department or the conduct of any officer or employe to be examined. Any person or persons appointed by the City Manager to examine the affairs of any department or the conduct of any officer or employe shall have the same power to compel the attendance of witnesses and the production of books and papers and other evidence and to cause witnesses to be punished for contempt as is conferred upon the Commission by this charter.

DEPARTMENTS

Departments Established

Section 51. The following administrative departments are hereby established by this charter:

1. Department of Law.
2. Department of Public Service.
3. Department of Public Welfare.
4. Department of Public Safety.
5. Department of Finance.

Changes in Departments and Subdivisions Thereof

Section 52. The Commission may by ordinance discontinue any department and determine, combine, and distribute the functions and duties of departments and subdivisions thereof.

Directors of Departments

Section 53. A director for each department shall be appointed by the City Manager and shall serve until removed by the City Manager or until his successor is appointed and has qualified. He shall conduct the affairs of his department in accordance with the rules and regulations made by the City Manager and shall be responsible for the conduct of the officers and employes of his department, for the performance of its business, and for the custody and preservation of the books, records, papers, and property under its control. Subject to the supervision and control of the City Manager in all matters, the director of each department shall manage the department.

City Commission and Advisory Boards

Section 54. The Commission may appoint a City Plan Board and upon the request of the City Manager shall appoint advisory boards. The members of such boards shall serve without compensation and their duty shall be to consult and advise with the various departments. The duties and powers thus created shall be prescribed by ordinance.

DEPARTMENT OF LAW**City Attorney**

Section 55. The City Attorney shall be an attorney at law admitted to practice in the State of Ohio and shall be the head of the Department of Law. He shall be the legal adviser of and attorney and counsel for the city, and for all officers and departments thereof in matters relating to their official duties. He shall prosecute and defend all suits for and in behalf of the city, and shall prepare all contracts, bonds and other instruments in writing in which the city is concerned and shall endorse on each his approval of the form and correctness thereof.

Section 56. The City Attorney shall be the prosecuting attorney of the municipal court. He shall have such number of assistants as the Commission by ordinance may authorize. He shall prosecute all cases brought before such court and perform the same duties, so far as they are applicable thereto, as are required of the prosecuting attorney of the county.

Section 57. When required to do so by resolution of the Commission, the City Attorney shall prosecute or defend for and in behalf of the city, all complaints, suits and controversies in which the city is a party, and such other suits, matters and controversies as he shall, by resolution or ordinance, be directed to prosecute or defend.

Section 58. The Commission, the City Manager, the director of any department, or any officer or board not included within a department, may require the opinion of the City Attorney upon any question of law involving their respective powers and duties.

Section 59. The City Attorney shall apply, in the name of the city, to a court of competent jurisdiction for an order of injunction to restrain the misapplication of funds of the city, or the abuse of its corporate powers, or the execution or performance of any contract made in behalf of the city in contravention of law, or which was procured by fraud or corruption.

Section 60. When an obligation or contract made on behalf of the city granting a right or easement, or creating a public duty, is being evaded or violated, the City Attorney shall likewise apply for the forfeiture or the specific performance thereof as the nature of the case requires.

Section 61. In case any officer or Board fail to perform any duty required by law, the City Attorney shall apply to a court of competent jurisdiction for a writ of mandamus to compel the performance of such duty.

Section 62. In case the City Attorney, upon written request of any taxpayer of the city, fail to make any application provided for in the preceding three sections, such taxpayer may institute suit or proceedings for such purpose in his own name on behalf of the city. No such suit or proceeding shall be entertained by any court until such request to the City Attorney shall first have been made, nor until the taxpayer shall have given security for the costs of the proceeding.

Section 63. No such action to enjoin the performance of a contract entered into, or the payment of any bonds or notes issued by the city, shall be brought or maintained unless commenced within one year from the date of such contract, bonds or notes.

Section 64. If the court hearing any such action be satisfied that the taxpayer had good cause to believe his allegations were well founded, or that they are sufficient in law, it shall make such order as the equity and justice of the case demand. In such case the taxpayer shall be allowed his costs, and if judgment be finally entered in his favor, he may be allowed as part of the costs a reasonable compensation for his attorney.

City Attorney to Act as City Solicitor.

Section 65. In addition to the duties imposed upon the City Attorney by this charter or required of him by ordinance, he shall perform the duties which are imposed upon city solicitors by the general law of the state, beyond the competence of this charter to alter or require.

DEPARTMENT OF PUBLIC SERVICE.**General Powers and Duties**

Section 66. Subject to the supervision and control of the City Manager in all matters, the Director of Public Service shall manage and have charge of the construction, improvement, repair, and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, and other public highways; of sewers, drains, ditches, culverts, canals, streams, and water courses; of all public buildings; of boulevards, squares, and other public places and grounds belonging to the city or dedicated to public use, except parks and playgrounds. He shall manage market houses, sewage disposal plants and farms and all public utilities of the city. He shall have charge of the enforcement of all the obligations of privately owned or operated public utilities enforceable by the city. He shall have charge of the making and preservation of all surveys, maps, plans, drawings, and estimates for such public work; the cleaning, sprinkling, and lighting of streets and public places; the collection and disposal of waste; the preservation of contracts, papers, plans, tools, and appliances belonging to the city and pertaining to the department.

DEPARTMENT OF PUBLIC WELFARE.**General Powers and Duties**

Section 67. Subject to the supervision and control of the City Manager in all matters, the Director of Public Welfare shall manage all charitable, correctional, and reformatory institutions and agencies belonging to the city; the use of all recreational facilities of the city including parks and playgrounds. He shall have charge of the inspection and supervision of all public amusements and entertainments. He shall enforce all laws, ordinances, and regulations relative to the preservation and promotion of the public health, the prevention and restriction of disease, the prevention, abatement and suppression of nuisances, and the sanitary inspection and supervision of the production, transportation, storage, and sale of food and foodstuffs. He shall cause a complete and accurate system of vital statistics to be kept. In time of epi-

demic, or threatened epidemic, he may enforce such quarantine and isolation regulations as are appropriate to the emergency. The Director of Public Welfare shall provide for the study of and research into causes of poverty, delinquency, crime and disease and other social problems in the community and shall by means of lectures and exhibits promote the education and understanding of the community in those matters which affect the public welfare.

Health Officer

Section 68. The Health Officer of the city shall be under the direction and control of the director of public welfare and shall enforce all ordinances and laws relating to health and shall perform all duties and have all the powers provided by general law relative to the public health to be exercised in municipalities by health officers; provided that regulations affecting the public health additional to those established by general law and for the violation of which penalties are imposed shall be enacted by the Commission and enforced as provided herein.

DEPARTMENT OF PUBLIC SAFETY

General Powers and Duties.

Section 69. Subject to the supervision and control of the City Manager in all matters, the Director of Public Safety shall be the executive head of the divisions of police and fire. He shall also be the chief administrative authority in all matters affecting the inspection and regulation of the erection, maintenance, repair, and occupancy of buildings as may be ordained by the Commission or established by the general law of the State of Ohio. He shall also be charged with the enforcement of all laws and ordinances relating to weights and measures.

Division of Police

Section 70. The Chief of Police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employes constituting the police force, under such rules and regulations as the director of public safety may prescribe. The police force shall be composed of a chief of police and such officers, patrolmen, and other employes as the City Manager may determine. In case of riot, emergency, at time of elections or similar occasions, the Director of Public Safety may appoint additional patrolmen and officers for temporary service who need not be in the classified service.

Section 71. No person shall act as special policeman, special detective, or other special police officer for any purpose whatsoever, except upon written authority from the Director

of Public Safety. Such authority shall be exercised only under the direction and control of the Chief of Police and for a specified time.

Division of Fire.

Section 72. The fire chief shall have exclusive control of the stationing and transfer of all firemen and other officers and employes constituting the fire force under such rules and regulations as the Director of Public Safety may prescribe. The fire force shall be composed of a chief and such other officers, firemen, and employes as the City Manager may determine. In case of riot, conflagration, or emergency, the Director of Public Safety may appoint additional firemen and officers for temporary service who need not be in the classified service.

Supervision in Fire and Police Divisions

Section 73. The Chief of Police and Fire Chief shall have the right to suspend any of the officers or employes in their respective divisions, who may be under their management and control, for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable cause. If any officer or employe be suspended, as herein provided, the chief of the division concerned shall forthwith in writing certify the fact, together with the cause for the suspension and render judgment thereon, which judgment, if the charge be sustained, may be suspension, reduction in rank, or dismissal, and such judgment in the matter shall be final, except as may be provided in the rules and regulations of the Civil Service Board. The Director of Public Safety in any such investigation shall have the same power to administer oaths and secure the attendance of witnesses and the production of books and papers as is conferred upon the Commission.

Suspension of Chief of Police and Fire Chief

Section 74. The City Manager shall have the exclusive right to suspend the Chief of Police and Fire Chief for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority, or for any other just and reasonable cause. If either of such chiefs be so suspended the City Manager shall forthwith certify the fact, together with the cause of suspension, to the Commission, who within five (5) days from the date of receipt of such notice, shall proceed to hear such charges and render judgment thereon which judgment shall be final.

Relief of Policemen and Firemen

Section 75. The Commission may provide by general ordinance for the relief, out of the police or fire funds, of mem-

bers of the divisions of police and fire, temporarily or permanently disabled in the discharge of their duty. Nothing herein shall impair, restrict, or repeal any provision of general law authorizing the levying of taxes to provide for firemen, police, and sanitary police pension funds, and to create and perpetuate boards of trustees for the administration of such funds.

DEPARTMENT OF FINANCE

General Duties of the Director of Finance

Section 76. The duties of the Director of Finance shall include the keeping and supervision of all accounts and the custody of all public money of the city; the purchase, storage and distribution of supplies needed by the various departments; the making and collection of special assessments; the issuance of licenses; the collection of license fees, and such other duties as the Commission may, by ordinance, require.

City Accountant

Section 77. The City Accountant shall install and have supervision over the accounts of all departments and offices of the city. Whenever practicable the books of financial account shall be kept in the office of the Department of Finance. The City Accountant shall require daily departmental reports of money receipts and the disposition thereof; and shall require of each, in such form as may be prescribed, current financial and operating statements exhibiting each transaction and the cost thereof.

Upon the death, resignation, removal or expiration of the term of any officer, the City Accountant shall examine the accounts of such officer and report his findings to the City Manager.

Accounting Procedure

Section 78. Accounting procedure shall be devised and maintained for the city adequate to record in detail all transactions affecting the acquisition, custodianship, and disposition of values, including cash receipts and disbursements; and the recorded facts shall be presented periodically to officials and to the public in such summaries and analytical schedules in detailed support thereof as shall be necessary to show the full effect of such transactions for each fiscal year upon the finances of the city and in relation to each department of the city government, including distinct summaries and schedules for each public utility owned and operated.

Assessments and Licenses

Section 79. The City Accountant shall have charge of the preparation and certification of all special assessments for public improvements; the mailing of notices of such as-

sessments to property owners and all other duties connected therewith; the collection of such assessments as are payable directly to the city and the preparation and certification of all unpaid assessments to the county auditor for collection. He shall issue all licenses and collect all fees therefor and shall pay the same to the City Treasurer in the manner provided by ordinance.

Payment of Claims

Section 80. No warrant for the payment of any claim shall be issued by the City Accountant unless such claim shall be evidenced by a voucher approved by the head of the department for which the indebtedness was incurred and countersigned by the City Manager. Before issuing such voucher the supplies and materials delivered, or work done, shall be duly inspected and certified to by the head of the proper department or office, or by a person designated by him. The head of each department or office shall require proper time reports from all service rendered to be certified by those having cognizance thereof, to serve as a basis for the preparation of pay-roll vouchers. Each director of a department and his surety shall be liable to the city for all loss or damage sustained by the city by reason of the negligent or corrupt approval of any claim against the city in his department. Prior to drawing of a warrant for the payment of any voucher or claim, the City Accountant may at his discretion cause an investigation or inspection to be made by a person designated by him, and shall have power to summon persons and examine them under oath or affirmation, which oath or affirmation he may administer.

Sinking Fund

Section 81. The members of the Commission, the City Manager, and the Director of Finance shall constitute the Sinking Fund Trustees. The Mayor shall be the president and the Director of Finance shall be the secretary of the Trustees of the Sinking Fund. The Trustees of the Sinking Fund shall manage and control the sinking fund in the manner provided by laws of the State of Ohio or by ordinance.

City Treasurer

Section 82. The division of the treasury shall be in charge of the City Treasurer who shall be the custodian of all public money of the city and all other public money coming into his hands as City Treasurer. The City Treasurer shall keep and preserve such moneys in the place or places determined by ordinance or by the provisions of any law applicable thereto.

Section 83. Except as otherwise provided in this charter, the City Treasurer shall, under the supervision of the Director of Finance, collect, receive and disburse all public money of

the city upon warrant issued by the City Accountant and shall also receive and disburse all other public money, coming into his hands as City Treasurer, in pursuance of such regulations as may be prescribed by the authorities having lawful control over such funds.

City Purchasing Agent

Section 84. The City Purchasing Agent shall, in manner provided by ordinance, purchase all supplies for the city, sell all real and personal property of the city not needed or unsuitable for public use or that may have been condemned as useless by the director of a department. He shall have charge of such storerooms and storehouses of the city as may be provided by ordinance, in which shall be stored all supplies and materials purchased by the city and not delivered directly to the various departments, and he shall inspect all supplies delivered to determine quality and quantity and conformance with specifications, and no voucher shall be honored unless the accompanying invoice shall be indorsed as approved by the City Purchasing Agent.

Section 85. The City Purchasing Agent may require from the director of each department at such times as contracts for supplies are to be let, a requisition for the quantity and kind of supplies to be paid for from the appropriations of the department.

Upon certification that funds are available in the proper appropriations such goods shall be purchased and shall be paid for from funds in the proper department for that purpose. However, this procedure shall not prejudice the City Purchasing Agent from purchasing goods for cash to the credit of the store's account, to be furnished the several departments on requisition, goods so furnished to be paid for by the department furnished therewith by warrant made payable to the credit of the store's account.

The City Purchasing Agent shall not furnish any supplies to or purchase any supplies for any department unless there be to the credit of such department an available appropriation balance in excess of all unpaid obligations sufficient to pay for such supplies.

Before making any purchase or sale, the City Purchasing Agent shall give opportunity for competition, all proposals to be upon precise specifications, and under such rules and regulations as the Commission shall establish. Each order of purchase or sale to be approved and countersigned by the City Manager or his deputy.

Emergencies

Section 86. In cases of emergency purchases may be made without competition, if a sufficient appropriation has theretofore been made against which such purchases may lawfully

be charged. In such cases a copy of the order issued shall be filed with the City Purchasing Agent, together with a certificate by the head of the department, stating the facts of the emergency. A copy of this certificate shall also be attached to and filed with the voucher covering payment for the supplies.

Certification of Funds

Section 87. No contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the Commission, or be authorized by any officer of the city, unless the Director of Finance first certify to the Commission or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure, is in the treasury, to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the city is discharged from the contract, agreement, or obligation.

Money in the Fund

Section 88. All moneys actually in the treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation or appropriation involved, that are anticipated to come into the treasury before the maturity of such contract, agreement, or obligation, from taxes or assessments, or from sales or services, products or by-products or from any city undertaking, fees, charges, accounts and bills receivable or other credits in the process of collection; and all moneys applicable to the payment of such obligation or appropriation, which are to be paid into the treasury prior to the maturity thereof, arising from the sale or lease of lands or other property, and moneys to be derived from lawfully authorized bonds sold and in process of delivery shall, for the purposes of such certificate, be deemed in the treasury to the credit of the appropriate fund and subject to such certification.

Contracts for Public Advertising

Section 89. All public advertising or publication necessary under the provisions of this charter shall be in a daily newspaper of general circulation within the city, and shall be done by contract, or in a journal published by the city as may be determined by ordinance. If such contract shall be with a newspaper it shall be entered into only after opportunity has been given for competition under such rules and regulations as the Commission may establish and for a term of not longer than one year.

Contracts in Excess of \$500

Section 90. No contract involving an expenditure in excess of five hundred dollars (\$500) shall be awarded except upon the approval of the City Manager and the Commission.

Bids in Excess of Estimate

Section 91. In no instance shall contracts be let either as a whole, or in aggregate if bids for parts of the work are taken, which exceed the estimate for the improvement contemplated.

Contracts—When Void.

Section 92. All contracts, agreements or other obligations entered into and all ordinances passed, resolutions and orders adopted, contrary to the provisions of the preceding sections, shall be void.

**CIVIL SERVICE
Members**

Section 93. The Commission shall appoint three electors of the city as a Civil Service Board; one to serve for two years and one for four years and one for six years, to take office January 1, 1914, or as soon thereafter as appointed and qualified. Thereafter members of the Civil Service Board shall be appointed to serve for six years and until their successors have been appointed and have qualified. Members of the Board shall not hold any other public office. The Commission may remove any member of the Board upon stating in writing the reasons for removal and allowing him an opportunity to be heard in his own defense. Any vacancy shall be filled by the Commission for the unexpired term.

Officers of the Board

Section 94. Immediately after appointment, the Board shall organize by electing one of its members chairman. The Board shall appoint a chief examiner who shall also act as secretary. The Board may appoint such other subordinates as may by appropriation be provided for.

Classification

Section 95. The Civil Service of the city is hereby divided into the unclassified and the classified service.

1. The unclassified service shall include:
 - A. All officers elected by the people.
 - B. The City Manager.
 - C. The heads of departments and heads of divisions of departments and members of appointive boards.
 - D. The deputies and secretaries of the Manager and one assistant or deputy, and one secretary for each department, and the Clerk of the Commission.

2. The classified service shall comprise all positions not specifically included in this charter in the unclassified service. There shall be in the classified service three classes to be known as the competitive class, non-competitive class, and labor class.

- A. The competitive class shall include all positions and employment for which it is practicable to determine the merit and fitness of applicants by competitive examination.
- B. The non-competitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character, as may be determined by the rules of the Board.
- C. The labor class shall include ordinary unskilled labor.

Rules

Section 96. The Board, subject to the approval of the Commission, shall adopt, amend, and enforce a code of rules and regulations, providing for appointment and employment in all positions in the classified service, based on merit, efficiency, character, and industry, which shall have the force and effect of law; shall make investigations concerning the enforcement and effect of this chapter and of the rules adopted. It shall make an annual report to the Commission.

Section 97. The Chief Examiner shall be the employment officer of all city employes coming under the classified service. He shall provide examinations in accordance with regulations of the Board and maintain lists of eligibles of each class of the service of those meeting the requirements of said regulations. Positions in the classified service shall be filled by him from such eligible lists upon requisition from and after consultation with the City Manager. As positions are filled the employment officer shall certify the fact, by proper and prescribed form, to the City Treasurer and the director of the department in which the vacancy exists.

Promotion

Section 98. The Board shall provide for promotion to all positions in the classified service, based on records of merit, efficiency, character, conduct and seniority.

Probation Period

Section 99. An appointment or promotion shall not be deemed complete until a period of probation not to exceed six months has elapsed, and a probationer may be discharged or

reduced at any time within the said period of six months, upon the recommendation of the head of the department in which said probationer is employed, with the approval of the majority of the Board.

Discharge or Reduction

Section 100. An employe shall not be discharged or reduced in rank or compensation until he has been presented with the reasons for such discharge or reduction, specifically stated in writing, and has been given an opportunity to be heard in his own defense. The reason for such discharge or reduction and any reply in writing thereto by such employe shall be filed with the Board.

Appeal to the Board

Section 101. Any employe of any department in the city in the classified service who is suspended, reduced in rank, or dismissed from a department by the director of that department or the City Manager, may appeal from the decision of such officer to the Civil Service Board, and such Board shall define the manner, time, and place by which such appeal shall be heard. The judgment of such Board shall be final.

Present Civil Service Employees

Section 102. All persons in the employ of the city holding positions in the classified service, as established by this charter at the time it takes effect, shall, unless their positions be abolished, retain same until discharged, reduced, promoted, or transferred in accordance herewith.

Pay Rolls Certified

Section 103. The treasurer or other public disbursing officer shall not pay any salary or compensation for service to any person holding a position in the classified service unless the pay roll or account for such salary or compensation shall bear the certificate of the Board, by its secretary, that the persons named therein have been appointed or employed and are performing service in accordance with the provisions of this charter and of the rules established thereunder.

Investigations

Section 104. In any investigation conducted by the Board it shall have the power to subpoena and require the attendance of witnesses and the production thereby of books and papers pertinent to the investigation and to administer oaths to such witnesses.

Political Belief, Assessments and Activity

Section 105. No person in the classified service or seeking admission thereto, shall be appointed, reduced or removed, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color or religious belief. No officer or employe of the city shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political party or political purpose whatever. No person holding a position in the classified service shall take any part in political management or affairs or in political campaigns further than to cast his vote or to express privately his opinions.

Violations and Penalties

Section 106. The Board, subject to the approval of the commission, shall by ordinance, determine the penalties for the violation of the Civil Service provisions of this charter.

Salaries

Section 107. The salaries of the Board and its employes shall be determined by the Commission and a sufficient sum shall be appropriated each year to carry out the civil service provisions of this charter.

IMPROVEMENTS AND ASSESSMENTS

Local Improvements

Section 108. The Commission shall have power by ordinance to provide for the construction, reconstruction, repair and maintenance by contract or directly by the employment of labor, of all things in the nature of local improvements, and to provide for the payment of any part of the cost of any such improvement by levying and collecting special assessments upon abutting, adjacent and contiguous or other specially benefited property. The amount assessed against the property specially benefited to pay for such local improvements shall not exceed the amount of benefits accruing to such property.

Methods of Special Assessments

Section 109. Special assessments upon the property deemed benefited by a public improvement shall be by any one of the following methods:

- (a) By a percentage of the tax value of the property assessed.
- (b) In proportion to the benefits which may result from the improvement.
- (c) By the foot frontage of the property bounding or abutting upon the improvement.

Preliminary Resolution

Section 110. When it is deemed necessary to make a public improvement to be paid for in whole or in part by special assessment, the commission shall declare the necessity therefor by resolution, and such resolution shall state the method of assessment, and the mode of payment and the number of annual installments, together with the total estimated cost of the improvement. Such resolution shall be certified to the Director of Finance, who shall thereupon proceed to make an assessment report, in accordance with the method of assessment provided in the resolution, which report shall be filed with the Commission, and shall show the lots and lands assessed, and the amount of the assessment as to each, together with the amount of benefit or damage to each lot or parcel of land to be assessed, with an estimate of the life of the improvement. The number of annual installments in which the assessment shall be paid, shall be fixed, but in no case shall they be greater in number than the estimated years of the life of the improvement.

Plans of Proposed Improvements

Section 111. At the time of the passage of the resolution hereinbefore provided, there shall be on file in the office of the Director of Public Service plans, specifications, estimates, and profiles of the proposed improvements, giving all information necessary; and such plans, specifications, estimates and profiles shall be open to the inspection of the public.

Notices Served

Section 112. Upon the filing of such report the Director of Finance shall cause written notice to be served upon the owner of each lot or parcel of land to be assessed, or otherwise affected, or upon the persons in whose names the same may be assessed for taxation upon the tax duplicate. Said notice shall be served in the manner provided for service of summons in civil actions; and, as to all non-residents and persons who cannot be found, publication of such notice shall be made at least once in a daily newspaper of general circulation in the city. Said notice shall contain a statement of the character of the proposed improvement, the fact that such assessment report has been filed with the Commission, the rate of such assessment, the number of installments, the total estimate of the cost of the improvement, the amount of benefit or damage to such lot or parcel of land, and shall state a time and place when complaints and claims will be heard before the Board of Revision of Assessments.

Board of Revision of Assessments

Section 113. The City Manager, the City Attorney, and the Director of Public Service shall constitute the Board of

Revision of Assessments. It shall organize and meet at times and places to be provided by its rules, and shall hear all claims and objections as to the character of all improvements to be paid for in part or in whole by special assessments, the necessity therefor, and the equity of the assessments as provided in the assessment report. A majority of those constituting the Board of Revision of Assessments shall have power to determine all complaints and objections submitted to it; and, as to each improvement, the board shall, after such hearing, approve, amend, equalize, or adjust the assessment report in every detail, and shall report its findings as to the necessity for the improvements and any amendment it directs in the assessments, the estimate of benefit and allowance of damages to the Commission.

Claims

Section 114. An owner of a lot or of land bounding and abutting upon a proposed improvement, claiming that he will sustain damage by reason of the improvement, shall present such claim to the Board of Revision of Assessments within two weeks after the service of notice or the completion of the publication hereinbefore provided. Such claim shall be in writing and shall set forth the amount of damages claimed, with a general description of the property with respect to which it is claimed the damage will accrue, and shall be filed with the Board of Revision of Assessments. Any owner who fails so to do shall be deemed to have waived such damages, and shall be barred from filing a claim or receiving damages therefor. This provision shall apply to all damage which will obviously result from the improvement, but shall not deprive the owner of his right to recover damages arising, without his fault, from acts of the city or of its agents. If, subsequent to the filing of such claim, the owner sell the property, or any part thereof, the right of damages, if any, shall follow the ownership of the land without other transference of the claim. The Board of Revision of Assessments shall report to the Commission all such claims for damages filed with it.

Final Assessment

Section 115. Whenever the Board of Revision of Assessments shall have made its final report to the Commission as to any improvement, the Commission, if it determine that the improvement shall proceed, shall pass an ordinance levying the assessment as reported by the Board of Revision of Assessments and directing that the improvement proceed. In such ordinance it shall be sufficient to describe the lots and lands abutting upon the improvement and to be assessed therefor, as all the lots and lands bounding and abutting upon such improvement between and including the termini of the improvement; and in describing lands which do not abut, it

shall be sufficient to describe the lots by their appropriate lot numbers, and the lands by metes and bounds; and this rule of description shall apply in all proceedings in which lots and lands are to be charged with special assessments.

Section 116. Special assessments shall be payable by the owners of the property assessed at the time stipulated in the ordinance, and shall be a lien from the date of the assessment upon the respective lots and parcels of land assessed, enforceable in the manner provided by the laws of the State of Ohio.

Damages Assessed

Section 117. At the time of the passage of the ordinance determining to proceed with the improvement as hereinbefore provided, the Commission shall determine whether the claims for damages so filed shall be allowed and paid or judicially inquired into either before commencing or after the completion of the proposed improvement. If it decide that the damages shall be assessed before commencing the improvement, the City Attorney shall then make a written application to the Court of Common Pleas, or a judge thereof in vacation, or to the Probate Court, for the summoning of a jury to determine such damages, and the judge shall direct that a jury be summoned as is provided for the appropriation of property, and fix the time and place for inquiry into, and assessment of such damages, which inquiry and assessment shall be confined to such claims.

Section 118. When the Commission determines to assess the damages after the completion of the improvement for which a claim for damages has been filed as hereinbefore provided, the City Attorney shall within ten (10) days after the completion of the improvement make written application as hereinbefore provided in the case of the ascertainment of damages before the improvement was made, and the same proceedings shall be had as provided in the next preceding section.

Section 119. A person who claims damages arising from any cause shall not commence a suit therefor against the city until he shall have filed a claim for such damages with the Director of Finance and sixty (60) days shall have elapsed thereafter. This provision shall not apply to an application for an injunction or other proceeding to which it may be necessary for such applicant to resort in case of urgent necessity.

Work to Be Done

Section 120. When the Commission shall have passed an ordinance directing that an improvement be made, to be paid for in whole or in part by special assessments, the Director of Public Service shall, as provided by ordinance, either directly by the employment of labor or by entering into a contract therefor, cause the improvement to be made.

Lands Unallotted or Not on Duplicate

Section 121. When special assessments are levied by the percentage of tax value of the property assessed or by the foot frontage of the property bounding and abutting upon the improvement, and there are lands subject to such assessment which are not assessed for taxation, the Director of Finance shall fix, for the purpose of such assessment, the value of such lots as they stand and of such lands at such depths as the Director of Finance considers a fair average of the depth of lots in the neighborhood, so that it will be a fair average of the assessed value of other lots in the neighborhood. Where lands are not subdivided into lots, but are assessed for taxation, the Director of Finance shall fix the value and the depth in the same manner; but the above rule shall not apply in making a special assessment according to benefits.

Interest on Assessment Bonds

Section 122. When bonds or notes are issued in anticipation of the collection of assessments, the interest thereon shall be treated as the part of the cost of the improvement for which assessments may be made.

Limitation of Assessments

Section 123. The Commission shall limit all assessments to the special benefits conferred upon the property assessed, and in no case shall there be levied on any lot or parcel of land any assessments for any or all purposes within a period of five years in excess of thirty-three and one-third percent (33 1-3%) of the actual value thereof after the improvement is made. Assessments levied for the construction of main sewers shall not exceed the sum that, in the opinion of the Commission, would be required to construct an ordinary street sewer or drain of sufficient capacity to drain or sewer the lots or lands to be assessed for such improvement, nor shall any lots or lands be assessed that do not need local drainage, or which are provided therewith.

City's Portion of Cost

Section 124. The city shall pay such part of the cost and expense of improvements for which special assessments are levied as the Commission deems just, which part shall not be less than one-fiftieth (1-50) of all such cost and expense; and in addition thereto the city shall pay the cost of intersections. The Commission may provide for the payment of the city's portion of all such improvements by the issuance of bonds or notes therefor, and may levy taxes, in addition to all other taxes authorized by law, to pay such bonds or notes and the interest thereon.

Replacing Existing Improvements

Section 125. The Commission may provide in whole or in part the cost of replacing any improvement existing in a street at the time of the adoption of this charter, by levying special assessments as hereinbefore provided; but any assessment for such replacement in less than fifteen (15) years from the date of a prior assessment for the improvement to be replaced shall be limited to a sum not in excess of fifty percent (50%) of the cost of such replacement.

Subsequent Improvements

Section 126. Every ordinance passed subsequent to the adoption of this charter, providing for an improvement to be paid for in whole or in part by special assessments, shall contain an estimate by the Director of Public Service of the life of the proposed improvement. Any assessment thereafter made for replacing such improvement within such estimated period of life shall be limited to a sum not in excess of fifty percent (50%) of the cost of such replacement. Assessments for replacements at or after the expiration of such estimated period of life shall be subject to no limitation except as provided for assessments for original improvements.

Supplementary Assessments and Rebates

Section 127. Upon the completion of any improvement the Director of Finance shall rebate to the then owner of the property which shall have been assessed to pay for such improvement, any surplus or excess remaining unexpended for the purpose which such assessment was made, and in the event of their being a deficit in the fund provided for the making of any such improvement, the Director of Finance shall report to the Commission a supplementary assessment within the limitations hereinbefore provided, which supplementary assessment shall be made by ordinance of the Commission and certified for collection as is provided in the case of original assessments. .

Sewer, Water, Gas and Other Connections

Section 128. The Director of Public Service shall have authority to compel the making of sewer, water, gas and other connections whenever, in view of contemplated street improvements or as a sanitary regulation, sewer, water, gas and other connections should in his judgment be constructed. He shall cause written notice of his determination thereof to be given to the owner of each lot or parcel of land to which such connections are to be made, which notice shall state the number and character of connections required. Such notice shall be served by a person, designated by the Director of Public

Service, in the manner provided for the service of summons in civil actions. Non-residents of the city, or persons who cannot be found, may be served by one publication of such notice in a daily newspaper of general circulation in the city. The notice shall state the time within which such connections shall be constructed; and if they be not constructed within the said time, the work may be done by the city, and the cost thereof, together with a penalty of five percent (5%) assessed against the lots and lands for which such connections are made. Said assessments shall be certified and collected as other assessments for street improvements.

Sidewalks

Section 129. The Commission may by resolution declare that certain specified sidewalks, curbings, or gutters shall be constructed or repaired. Upon the passage of such a resolution the City Manager shall cause written notice of the passage thereof to be served upon the owner, or agent of the owner, of each parcel of land abutting upon such sidewalk, who may be a resident of the city, in the manner provided by law for the service of summons in civil actions. He shall return a copy of the notice with the time and manner of service endorsed thereon, signed by the person serving it, to the Director of Public Service, who shall file and preserve such return. For the purpose of such service, if the owner of any such property be not a resident of the city, any person charged with the collection of rent, or the payment of taxes on such property, or having control thereof in any way, shall be regarded as the agent of the owner, and service upon such person shall have the like force and effect as though personal service were made upon the owner thereof. If it appear in any such return, however, that the owner is a non-resident, or that neither such owner or agent could be found, one publication of a copy of the resolution in a daily newspaper of general circulation in the city shall be deemed sufficient notice to such owner.

Section 130. If sidewalks, curbings or gutters be not constructed or repaired within fifteen (15) days from the service of the notice provided for in the preceding section, or the completion of the publication thereof, the Director of Public Service may proceed by direct employment of labor, or by contract, to carry out the said construction or repair at the expense of the owner, as in the case of other improvements, and all such expense shall be reported by the Director of Public Service to the Commission. The Commission shall thereupon, by ordinance, assess the cost and expense thereof upon the owner or owners of all the property bounding or abutting thereon, and such assessments shall be collected in the same

manner as other assessments, with a penalty of five percent (5%) and interest for failure to pay at the time fixed by the assessment resolution.

Assessment Bonds

Section 131. The Commission may at any time borrow money and authorize the issuance of notes or bonds therefor in anticipation of the collection of assessments, levied for the purpose of paying the cost of constructing or repairing sidewalks, curbings and gutters which are to be or have been constructed by the Director of Public Service, upon the failure of the owners of the property to construct or repair the same, pursuant to notice as hereinbefore provided.

Public Improvements by Contract or Direct Labor

Section 132. Public improvements of all kinds may be made by the appropriate department, either by direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, or by contract duly let after competitive bidding, either for a gross price, or upon a unit basis for the improvement, or by contract containing a guaranteed maximum and stipulating that the city shall pay within such maximum the cost of labor and materials, plus a fixed percentage of profit to the contractor. The Commission, by ordinance, shall determine by which of the foregoing methods improvements shall be made. Contracts may provide a bonus per day for completion of the contract prior to a specified date, and liquidated damages to the city to be exacted in like sum for every day of delay beyond a specified date.

Alterations or Modifications in Contract

Section 133. When it becomes necessary in the prosecution of any work, or improvement under contract, to make alterations or modifications in such contract, such alterations or modifications shall be made only upon resolution of the Commission. No such order shall be effective until the price to be paid for the work and material, or both, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and the City Manager upon authority of the Commission.

Plat of Sub-Division

Section 134. An owner of lots or grounds within the city, who subdivides or lays them out for sale, shall cause to be made an accurate map or plat of such sub-division, describing with certainty all grounds laid out, or granted for streets, alleys, ways, commons, or other public uses. Lots sold or in-

tended for sale shall be numbered by progressive number, or described by the squares in which situated, and the precise length and width shall be given of each lot sold or intended for sale. Such map or plat shall be subscribed by the owner and lien holders, acknowledged before an officer authorized to take the acknowledgment of deeds, approved by the Director of Public Service, and recorded in the office of the County Recorder.

Fee Shall Vest in City

Section 135. The map or plat so recorded shall thereupon be a sufficient conveyance to vest in the city the fee of the parcel of land designated or intended for streets, alleys, ways, commons or other public uses, to be held in the corporate name in trust to and for the uses and purposes in the instrument set forth, expressed, designated, or intended.

Supervisor of Plats

Section 136. The Director of Public Service shall be the Supervisor of Plats of the city. He shall provide regulations governing the platting of all lands so as to require all streets and alleys to be of proper width, and to be co-terminous with adjoining streets and alleys, and otherwise to conform to regulations prescribed by him. Whenever he shall deem it expedient to plat any portion of territory within the city limits, in which the necessary or convenient streets or alleys have not already been accepted by the city so as to become public streets, or alleys, or when any person plats any land within the corporate limits or within three miles thereof, the Supervisor of Plats shall, if such plats are in accordance with the rules as prescribed by him, endorse his written approval thereon. No plat subdividing lands within the corporate limits, or within three miles thereof, shall be entitled to record in the Recorder's office of the county without such written approval so endorsed thereon.

Effect of Such Platting

Section 137. No streets or alleys, except those laid down on such plat and bearing the approval of the Supervisor of Plats as hereinbefore provided, shall subsequently in any way be accepted as public streets, or alleys, by the city, nor shall any public funds be expended in the repair or improvement of streets and alleys subsequently laid out and not on such plat. This restriction shall not apply to a street or alley laid out by the city, nor to streets, alleys or public grounds laid out on a plat by or with the approval of the Supervisor of Plats.

Streets and Public Grounds

Section 138. The Commission shall provide, by ordinance, for the care, supervision, control, and improvement of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts and viaducts within the city, and shall cause them to be kept open, in repair, and free from nuisance.

Alteration of Streets

Section 139. When it deems it necessary the Commission may cause any street, alley or public highway to be opened, straightened, altered, diverted, narrowed, widened or vacated.

Dedication of Streets

Section 140. No street or alley hereafter dedicated to public use by the proprietor of ground in the city shall be deemed a public street or alley, or under the care or control of the Commission, unless the dedication be accepted and confirmed by ordinance passed for such purpose, or unless the provisions hereof relating to subdivisions shall have been complied with.

Vacation or Change of Name

Section 141. The Commission in vacating any street or part of street, or changing the name of any street, may include in one ordinance the change of name or the vacation or narrowing of more than one street, avenue or alley, but before vacating any street or part thereof, or narrowing any street, the Commission shall first pass a resolution declaring its intention so to do. The City Manager shall cause notice of such resolution to be served in the manner that service of summons is required to be made in civil actions upon all persons whose property abuts upon the portion of the street affected by the proposed vacation or narrowing, and by publication once in one daily newspaper of general circulation in the city as to all the persons who cannot be personally served. Said notice shall state the time and place at which objections can be heard before the Board of Revision of Assessments. Upon the report by the Board of Revision of Assessments approving the proposed vacation or narrowing the Commission may by ordinance declare such vacation or narrowing, and such order of the Commission vacating or narrowing a street or alley which has been dedicated to public use by the proprietor, shall, to the extent to which it is vacated or narrowed, operate as a revocation of the acceptance thereof by the Commission, but the right of way and easement therein of any lot owner shall not be impaired thereby.

APPROPRIATION OF PROPERTY

Appropriation

Section 142. Property within the corporate limits of the city may be appropriated for any public or municipal purpose, and to the full extent of the authority granted by the constitution of the state, such appropriation shall be made as herein provided. By such appropriation the city may acquire a fee simple title or any less estate, easement or use. Appropriation of property located outside the corporate limits of the city shall be made according to the requirements of, and as provided by general law.

Declaratory Resolution

Section 143. When it is deemed necessary to appropriate property the Commission shall adopt a resolution declaring such intent, defining the purpose of the appropriation, setting forth a pertinent description of the property, and the estate or interest therein desired to be appropriated.

Notice

Section 144. Immediately upon the adoption of such resolution, the City Manager shall cause written notice thereof to be given to the owner, person in possession thereof, or having an interest of record in, every piece of land sought to be appropriated, or to his authorized agent; and such notice shall be served by a person designated for the purpose, and return made in the manner provided by law for the service and return of summons in civil actions. If such owner, person or agent cannot be found, notice shall be given by publication once a week for three consecutive weeks in a daily newspaper of general circulation in the city, and the Commission may thereafter pass an ordinance directing such appropriation to proceed.

Purchase Privilege

Section 145. After such notice, the Commission, if it can agree with the owner upon the price to be paid for such property, may, by ordinance, order the purchase thereof.

Further Proceedings

Section 146. If the Commission shall be unable to agree with the owner upon the purchase price, it may thereafter pass an ordinance directing such appropriation to proceed, and thereupon the City Attorney shall make application to the Court of Common Pleas, or to a judge thereof in vacation, or to the Probate Court, which application shall describe as correctly as possible the land or other property to be appropriated, the interest or estate therein to be taken, the object

for which the land is desired, and the name of the owner of each lot or parcel thereof, and all the subsequent proceedings with regard thereto shall be in the manner provided by general law for the appropriation of property by municipal corporations in this state.

FRANCHISES AND PUBLIC UTILITIES

Grant

Section 147. The Commission may by ordinance grant permission to any individual, company or corporation to construct and operate a public utility in the streets and public grounds of the city. The ordinance granting any such franchise shall be subject to petition and referendum as specified in sections 21 to 31 of this charter. No franchise shall be considered an emergency measure.

Renewals

Section 148. The Commission may, by ordinance, renew any grant for the construction or operation of any utility, at its expiration subject to petition and referendum as before stated.

No Exclusive Grant

Section 149. No exclusive franchise or renewal shall ever be granted and no franchise shall be renewed before one year prior to its expiration.

Conditions

Section 150. The Commission shall in any ordinance granting or renewing any franchise to construct and operate a public utility, prescribe the kind and quality of service or product to be furnished, the rate or rates to be charged therefor, the manner in which the streets and public grounds shall be used and occupied, and any other terms and conditions conducive to the public interest.

Termination

Section 151. All such grants and removals thereof shall reserve to the city the right to terminate the same and to purchase all the property of the utility in the streets and highways in the city and elsewhere, as may be provided in the ordinance making the grant or renewal, used in or useful for the operation of the utility, at a price either fixed in the ordinance, or to be fixed in the manner provided by the ordinance making the grant or renewal of the grant. Nothing in such ordinance shall prevent the city from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods of acquisition shall be alternative

to the power to purchase, reserved in the grant or renewal as hereinbefore provided. Upon the acquisition by the city of the property of any utility, by purchase, condemnation, or otherwise, all grants or renewals shall at once terminate.

Section 152. No ordinance making such grant or renewal shall be valid unless it shall expressly provide therein that the price to be paid by the city for the property that may be acquired by it from such utility, by purchase, condemnation or otherwise, shall exclude all value of such grant or renewal.

Extensions

Section 153. The Commission may, by ordinance, grant to any individual, company or corporation operating a public utility, the right to extend the appliances and service of such utility, subject to petition and referendum as before stated. All such extensions shall become a part of the aggregate property of the utility, and shall be subject to all the obligations and reserved rights in favor of the city applicable to the property of the utility by virtue of the ordinance providing for its construction and operation. The right to use and maintain any such extension shall expire with the original grant of the utility to which the extension was made or any renewal thereof.

Consents

Section 154. No consent of the owner of property abutting on any highway or public ground shall be required for the construction, extension, maintenance or operation of any public utility by original grant or renewal, unless such public utility is of such a character that its construction or operation is an additional burden upon the rights of the property owners in such highways or public grounds.

Regulations

Section 155. The Commission shall at all times control the distribution of space, in, over, under or across all streets or public grounds occupied by public utility fixtures. All rights granted for the construction and operation of public utilities shall be subject to the continuing right of the Commission to require such reconstruction, relocation, change or discontinuance of the appliances used by the utility in the streets, alleys, avenues and highways of the city, as shall in the opinion of the Commission be necessary in the public interest.

APPROPRIATIONS

The Estimate

Section 156. The fiscal year of the city shall begin on the first day of January. On or before the first day of November of each year the City Manager shall submit to the Commission an estimate of the expenditures and revenues of the city departments for the ensuing year. This estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the City Manager. The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional divisions of all departments, and shall give in parallel columns the following information:

- (a) A detailed estimate of the expense of conducting each department as submitted by the department.
- (b) Expenditures for corresponding items for the last two fiscal years.
- (c) Expenditures for corresponding items for the current fiscal year, including adjustments due to transfers between appropriations plus an estimate of expenditure necessary to complete the current fiscal year.
- (d) Amount of supplies and materials on hand at the date of the preparation of the invoice.
- (e) Increase or decrease of requests compared with the corresponding appropriations for the current year.
- (f) Such other information as is required by the Commission or that the City Manager may deem advisable to submit.
- (g) The recommendation of the City Manager as to the amounts to be appropriated with reasons therefor in such detail as the Commission may direct.

Sufficient copies of such estimate shall be prepared and submitted, that there may be copies on file in the office of the Commission for inspection by the public.

Appropriation Ordinance

Section 157. Upon receipt of such estimate the Commission shall prepare an appropriation ordinance in such form as may be prescribed by ordinance or resolution. Before finally acting upon such tentative appropriation the Commission shall fix a time and place for holding public hearings upon the tentative appropriation, and shall give public notice of such hearings. Following the public hearings and before its final passage, the appropriation ordinance shall be published with a parallel comparison with the recommendation of the City Manager. The Commission shall not pass the appropriation ordinance until ten (10) days after its publication, nor before the second Monday in January.

Revision of Appropriations

Section 158. If, at the beginning of the term of office of the first Commission elected under the provisions of this charter, the appropriations for the expenditures of the city government for the current fiscal year have been made, said Commission shall have power by ordinance to revise, to repeal or change said appropriations and to make additional appropriations.

Transfer of Funds

Section 159. Upon request of the City Manager the Commission may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department.

Limitations on Appropriations

Section 160. At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation.

Any accruing revenue of the city, not appropriated as hereinbefore provided, and any balances at any time remaining after the purposes of the appropriation shall have been satisfied or abandoned, may from time to time be appropriated by the Commission to such uses as will not conflict with any uses for which specifically such revenues accrued.

No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except pursuant to the appropriations made by the Commission.

GENERAL PROVISIONS

Compensation of Officers and Employees

Section 161. The Commission shall fix by ordinance the salary or compensation of the heads of departments, its own employees, except as is provided by this charter, the salary or compensation of the members of the divisions of police and fire under the immediate control of the chief thereof, and of members of boards in the unclassified service of the city.

The City Manager shall fix the number and salaries or compensation of all other officers and employees.

The salaries or compensations so fixed shall be uniform for like service in each grade of the service as the same shall be graded or classified by the City Manager in accordance with the rules and regulations adopted by the Civil Service Board.

All such salaries and rates of pay shall be reported to the City Employment Officer forthwith. All fees and moneys received or collected by officers and employes shall be paid into the paid by the city.

Official Bonds

Section 162. The Commission or City Manager in fixing the salary of any officer, clerk, or employe shall determine whether such officer, clerk or employe shall give a bond and the amount thereof, which bond shall be procured from a regularly accredited surety company authorized to do business under the laws of Ohio. Premiums on such bonds shall be paid by the City.

Continuance of Present Officers

Section 163. All persons holding office at the time this charter goes into effect shall continue in office and in the performance of their duties until provision shall have been otherwise made in accordance with the provisions of this charter for the performance or discontinuance of the duties of any such office. When such provision shall have been made the term of any such officer shall expire and the office be abolished.

The powers which are conferred and the duties which are imposed upon any officer, board, commission, or department of the city under the laws of the state shall, if such officer, board, commission, or department is abolished by this charter be thereafter exercised and discharged by the officer, board, or department upon whom are imposed corresponding functions, duties, and powers under the provisions of this charter.

Oath of Office

Section 164. Every officer of the city shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation, to be filed and kept in the office of the Commission, that he will in all respects faithfully discharge the duties of his office.

Continuance of Contracts

Section 165. All contracts entered into by the city or for its benefit prior to the taking effect of this charter shall continue in full force and effect. All public work begun prior to the taking effect of this charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under laws in force at the time this charter takes effect may be carried to completion in accordance with the provisions of such laws.

Existing Ordinance

Section 166. All ordinances and resolutions in force at the time of the taking effect of this charter, not inconsistent with its provisions, shall continue in force until amended or repealed.

Hours of Labor

Section 167. The Commission shall have power to provide by ordinance that on any public work carried on by the municipality, whether done by contract or otherwise, not to exceed eight hours a day shall constitute a day's work.

Assessment for Removal of Snow, Weeds, Etc.

Section 168. The Commission shall have power to provide by ordinance for assessing against the abutting property the cost of removing from the sidewalks all accumulations of snow and ice, and for assessing against the property the cost of cutting and removing therefrom noxious weeds and rubbish.

Amendments

Section 169. Amendments to this charter may be submitted to the electors of the city by a majority vote of the Commission, and shall be submitted by the Commission when a petition signed by ten (10) per cent of the electors of the city, setting forth any such proposed amendment shall have been filed with the election authorities in the manner and form prescribed herein for the submission of ordinances by an initiative petition. The amendment shall be submitted to the electors at the next regular municipal election if one shall occur not less than sixty (60) nor more than one hundred and twenty (120) days after its passage; otherwise it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid. Not less than thirty (30) days prior to such election the clerk of the Commission shall mail a copy of the proposed amendment to each elector whose name appears upon the registration books of the last regular municipal or general election. If such proposed amendment be approved by a majority of the electors voting thereon it shall become a part of the charter at the time fixed therein.

When Charter Takes Effect

Section 170. For the purpose of nominating and electing officers and exercising the powers of the city as provided herein, this charter shall take effect from the time of its approval by the electors of the city. For the purpose of establishing departments, divisions and offices, and distributing

the functions thereof, and for all other purposes it shall take effect on the first day of January, 1914.

We, the undersigned members of the Charter Commission of the City of Dayton, Ohio, elected at a special election held on the 20th day of May, A. D. 1913, have prepared and hereby propose the foregoing as a charter for the City of Dayton.

Done in duplicate in the City of Dayton this 23rd day of June, A. D. 1913.

THE CHARTER COMMISSION.

By John H. Patterson,
Chairman.
Edward E. Burkhart,
Vice-Chairman.
Charles W. Folkerth,
Secretary.
Frederick H. Rike,
Treasurer.

Lee Warren James
Fred Cappel
E. C. Harley
Clarence E. Bice
E. T. Banks
O. B. Kneisly
Albert I. Mendenhall
John A. McGee
Leopold Rauh
William A. Sparks
Joseph B. Zehnder

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THIS charter has been reprinted by the Bureau of Municipal Research for public distribution, because it is believed to represent the most advanced position in American local government. The document is notable in providing a nonpartisan, short ballot; the execution of law by professional administrators; the use of the initiative, referendum and recall, and even more exceptional in its detail of administrative procedure.

A few of the features frequently neglected by charter commissions, but provided here are

- A continuous audit of city accounts, with a general balance sheet exhibiting assets and liabilities of the city
- The requirement of summaries of city income and expenditure rather than of receipts and expense
- Accounting procedure adequate to record in detail all transactions affecting the acquisition, custodianship and disposition of values
- A scientific budget classified uniformly for the main functional divisions of all departments
- Standardization and centralized purchasing of all supplies
- Time sheets and certification of all pay-rolls
- Current financial and operating statements exhibiting each transaction and the cost thereof
- Adequate franchise control
- Citizen-boards to consult and advise with the various departments
- Standardization of service and compensation, insuring equal pay for equal work in every branch of the city government

While all government is dependent for its character on the quality of chosen officials and the extent of citizen-interest, it is believed that these foregoing provisions will tend to insure a desirable minimum of efficiency in city government, whether the voter cares or not.

Bureau of Municipal Research

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COMMENT ON THE DAYTON CHARTER

LENT D. UPSON

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COMMENT ON THE DAYTON CHARTER

BY LENT D. UPSON¹*Dayton, O.*

DAYTON is the first large city to attempt municipal betterment through city manager government, and this fact together with the unusual circumstances attending its adoption, has directed a significant interest to the experiment. Many communities impressed by this example of local government have endeavored to put its larger principles into operation. Some of these have copied intact the Dayton charter, while others have accepted the administrative provisions with slight change.

Doubtless a charter most carefully prepared would, under operation, develop points for improvement. This could not be less true of the Dayton document, which in spite of painstaking thought on certain sections, was written in a limited time by business men. The wide use of the Dayton document as a model suggests the indicating of certain alterations, the need of which has developed through a year's experience. The notations are illustrative of the necessity of care and experience in charter drafting, and are not meant as an exhaustive recital of charter defects.

It so happens that all of the larger cities and most of the smaller ones with city manager government have placed the legislative powers in a small board, elected at large without regard to political party. Irrespective of the improvement in administration generally attending the adoption of the city manager plan, it has not been definitely proven that a small council chosen in the manner indicated contributes materially to this result.

Indeed, the amount of newspaper criticism and street talk based upon misinformation and prejudice prompts the belief that there is a failure to filter the facts of government down to an interested public—an error which some elements suggest might be corrected by bringing the legislative body closer to the people. It is advanced that a method by which the several political and social elements in the community might be represented would stimulate a more friendly attitude among discordant groups, and would require such representatives to place themselves definitely on record on propositions which are criticised solely for political expediency. In other words, responsibility would minimize fault-finding. This problem of representation can have only an empirical solution, and Dayton having discarded the ward system and its evils, awaits with interest the results of a trial of proportional representation.

¹ Director, Dayton Bureau of Municipal Research.

That the provision in the Dayton charter permitting the recall of the city manager is an error, has been generally conceded. The city manager is solely an administrative officer engaged to carry out the legislative policies of the commission. If he fails in these administrative duties, the commission has made the mistake of appointing an incompetent person; if measures are unpopular, it is the fault of the commission which ordered them put into effect. Granted that in the public mind the city manager will always be the most important person in the city government; that administrations will succeed or fail upon the manager's achievements—yet in the last analysis it is the employers who should be held responsible.

The charter-framers of Dayton were not insensible to these principles, but believed that to have so radical a departure in city government approved, it would be necessary to offer an additional safeguard in the possibility of recalling the city manager. As the public has come largely to realize the purely administrative duties of the city manager, it seems feasible to eliminate this objectionable feature of the charter.

The charter provides that the first meeting of the city commission shall be "on the first Monday of January following the regular municipal election." Under such circumstances it might so happen that the city would be without government, or at least its officers without authority to expend funds from January 1 until the first Monday in the month. This section should be remedied, calling for a meeting of the commission, and the passing of an appropriation ordinance on the first business day of the year.

It has been provided that the city attorney shall be appointed by the city manager, while his assistants are chosen subject to civil service regulations. Question has been made as to the policy of subordinating this office to chief executive. Numerous questions may be proposed, relating particularly to the financial administration of the city, in which it might be advisable that the opinion of the city attorney be unbiased by his relationship with the officer directly responsible for such financial considerations. Not infrequently the desire of an administration to show immediate results proves inimical to the best interests of the tax payers, although the latter are theoretically protected by law. For example, by the refunding of bonds to the advantage of the operating fund; by bond issues for purposes approaching current operation, etc. In such instances the legal adviser of the city should be in the position to advance an independent opinion. It has been suggested that the city attorney, or the chief financial officer, preferably the former, be appointed directly by the commission, but this diversion from centralized authority has never been tried.

The vital feature of the prescribed accounting procedure of Dayton is in the words "accounting procedure shall be devised and maintained for the city, adequate to record in detail all transactions affecting the

acquisition, custodianship and disposition of values " With this sanction, the director of finance has opened a complete set of books including a general ledger, and is prepared to furnish an accurate balance sheet of all city funds. In fact, Dayton has installed a financial system comparing favorably with that employed in large private business, and which is equalled by few cities in the country. The charter further requires that distinct summaries and schedules shall be presented for each public utility owned and operated. This should be amended to include public industries, such as garbage disposal plants, public markets, etc.

Under the present requirement the city manager signs both the order for goods or services and the voucher by which the payment for such is authorized. It is doubtful if the manager should be compelled to sign either of these documents, as he has no personal knowledge of, and little time to investigate, the merits of the thousands of business transactions occurring.

To centralize the city government the charter provides that the board of sinking fund trustees shall consist of the city commission, the city manager, and the director of finance. A commission with its many varied duties has little time or interest in technical sinking fund procedure. Even in Dayton such a fundamental procedure as the change from the serial to sinking fund plan of debt retirement secured scant consideration. Further, intrusting the custodianship of sinking fund money with the same body that creates indebtedness may not be assumed always to operate to the interest of the tax payers. Occasions might be when the legislative body would issue bonds which, while permitting a favorable showing by the administration, might be illegal as well as impolitic. Examples are bonds for equipment, regular engineering, and refunding purposes. Under the present circumstances if such indebtedness were refused by bond buyers the legislative body acting as sinking fund trustees might purchase the questionable issue. On the other hand, an independent board of sinking fund trustees would probably be inclined to act only for the broader concern of the public. Reduction in salaried positions, though not the centralization of administration, could be secured equally well by creating a sinking fund commission to serve without pay, and by providing that the city treasurer or accountant should act as secretary.

Purchasing provisions of the charter do not provide that the purchasing agent shall buy other than supplies and materials, although the local agent has extended his activities to include certain contractual services known in budgetary parlance as "contractual services" or "services other than personal." Charter amendment should be made to demarcate the sphere of the agent; or at least to designate minimum activities, leaving their extension to the option of the city manager. Probably centralized purchasing would be profitable for telephone service; repairs by contract

or open market order, whether to equipment, building or structures; insurance, both fire and liability; public utility services except transportation charges; and other contractual services such as legal advertising, boarding of live stock, rent of lands and buildings, storage of equipment, horseshoeing, etc.

Definite charter provision should be made for the creation of a stores fund with which goods may be purchased, stored and sold to departments without profit; for the reimbursement of this fund by warrants drawn against the proper appropriation codes when stores are delivered; and as to the method of adjusting the account at the close of the fiscal year. Authorization should also be made for the sale of services and supplies between departments where the transfer of charges is one of account and no money passes through the city treasury.

It would also be well to specify more clearly the circumstances surrounding emergency orders, requiring that the facts of the emergency shall be certified to the purchasing agent within twenty-four hours after the purchase is made, and that a confirming order shall be immediately sent to the vendor. In this connection the creation of departmental petty cash funds should be definitely allowed, carefully limiting their use so as to minimize abuse.

Further provision should be made that when bids are opened, and before contracts are let, the figures should be public to competitors and to citizens sufficiently interested to inquire at the purchasing agent's office. To this end bids should be tabulated upon standard sheets and become permanent records. Objection has been made that the publicity of bids in contrast to the practice of private firms is not conducive to lowest prices. On the other hand, secrecy of bids places the purchasing agent liable to the temptation of deals with corrupt vendors, and robs the public and competitors of easy means of detection. This situation, as in Dayton, may be remedied by administrative order, but a model charter should leave no vagueness of this character.

If city advertising is done exclusively in a daily newspaper of general circulation which bids the lowest price per unit for such services, there is a remarkable saving in charges of this character. However, the Dayton charter does not permit a municipal journal to be substituted in case a newspaper contract has been entered into, although frequently it would be advantageous to do so. With certain extensive ordinances such as the city budget, building code, traffic rules, etc., newspaper publication is not only expensive, but it is not particularly effective. In such instances it would be desirable to publish in pamphlet form as an issue of a journal which would be less expensive, furnish a means of permanence, and allow for distribution among persons affected or interested.

The absurdity of certain of the Dayton civil service provisions will

be so apparent to even the casual student of government that these sections merit only brief mention and discussion:

(a) The unclassified service includes the heads of divisions, as well as of departments, thereby removing the promotion incentive for employees, and offering a stimulus to the creation and extension of divisions by an unscrupulous administration interested in extending the spoils system.

(b) The chief examiner is empowered to fill vacant positions, after consultation with the city manager, from the *entire* eligible list. Certainly such a provision lays the merit system wide open to abuse, and might even nullify it were the appointing officers so inclined. The city manager of Dayton is appointing from the top of the eligible list, but a change in the administration policies would permit the filling of vacancies with ward politicians of minimum ability.

(c) Contrary to approved practices, it is provided that discharged employees are entitled to a public hearing before the civil service board. Such a program will find little defense among persons familiar with civil service practice. A recent experience of Dayton with a public hearing of this kind has proven this scheme to be conducive to insubordination, makes the departmental head reluctant to discharge incompetents, and furnishes an opportunity for the creating of political capital by the opposition.

There are a number of commendable features in the civil service chapter, notably those relating to the standardization of salaries, requiring a probationary period of appointment, certification of all pay rolls, and the prevention of political activity on the part of employees. These should be retained, but certainly the other provisions cited are in urgent need of amendment.

The principal weaknesses of the special assessment sections relate to the levying of assessments previous to the making of improvements. It is impractical for the city engineer to estimate exactly the cost of improvements, in consequence of which the figures are usually excessive, necessitating rebates at the conclusion of the construction. However, when this amount is small, and no demand is made by the tax payer, the surplus is turned into a fund to meet small deficiencies. The devising of some plan which will eliminate these difficulties without involving the objections arising from fixing the assessments after the improvement is made would be an interesting study.

The extensive use which municipalities are now making of special assessments for purposes other than public improvements, should prompt some provisions for the treatment of these funds aside from the regular assessment procedure. Where assessments are used for special street lighting, vault cleaning, sidewalk cleaning, weed cutting, street flushing, street sprinkling, etc., regular budgetary appropriations should be made for these services, with the stipulation that the assessment income should be turned into the general fund as a regular revenue; and that in those cases in which such assessment is placed on the tax duplicate it should be returned when collected to the general fund.

Some exception has been taken to the franchise regulation which pro-

hibits the regranting of a franchise prior to one year of its expiration, a section included to prevent franchise jobbing by a controlled legislative body. It has not been infrequent in municipal history for a council to annul a franchise and in its place grant a new one for a long period. On the other hand it is frequently to local advantage to secure improvements from public utilities, or the union of separate companies, in return for a new franchise granted before the expiration of the older ones. Probably with the other safeguards which have been thrown around the granting of franchises this section might be eliminated.

No sections of the Dayton charter have been more widely copied than those relating to appropriations, doubtless because this city has been one of the few to detail appropriation procedure. However, after the experience derived from the preparation of two budgets under these sections, and with a knowledge of the more recent developments in budget making, certain minor changes urgently recommend themselves:

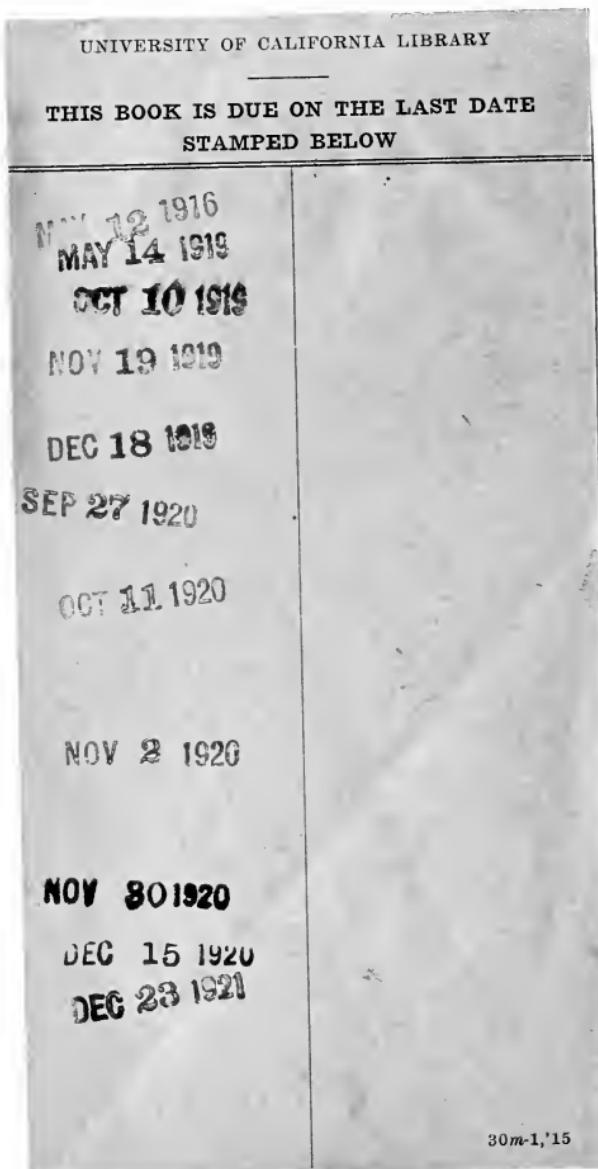
- (a) The fiscal year should begin, not necessarily with the calendar year but at a time when the principal payments of accrued city revenues are anticipated.
- (b) The classification of expense estimates should be *uniform* for the main functional divisions of each department, rather than "as nearly uniform as possible."
- (c) The clause requiring that the first publication of the budget be made *after* the public hearings should be changed to read *before*. This was an unintentional error. A provision requiring that the manager's estimate of expense be published parallel with the appropriations of the commission has been found unnecessary.
- (d) Recently considerable change in budget procedure has been suggested by the publication of a budget program for the city of New York for 1915, as devised by the New York bureau of municipal research. The details are too long to be discussed here but are worthy of consideration by any charter drafting body.

In providing for the salaries and compensation of employees, the charter states that the city manager shall fix the number and salaries of officers and employees excepting those in the division of fire and police, and the heads of departments. Such a section is theoretically unsound as delegating to an appointive officer powers which should be retained by the legislative body which is responsible to the people. This was recognized by the city manager of Dayton who voluntarily relinquished this charter right, and the salaries and period of service of each employee are made an integral part of the appropriation ordinance.

The charter by requiring that the money shall be in the treasury before obligations are entered into automatically limits the period of contract to one year. In the main, this has proven beneficial but absolutely prevents long-term contracts for public lighting, garbage disposal, etc. Contracts of this character should be exempt from this provision.

These are some of the important changes found desirable in the Dayton charter after one year of operation. Doubtless there are others which further experience will develop. This document was never presented as the last word in charter-making, but claims to be only a step in advance

over those in common use. Cities contemplating the adoption of the Dayton model of government should profit by the weaknesses which have arisen, remembering that the most adequate charter, if it contains administrative procedure, will require periodic amendment in order to take advantage of improvements developed through the experience of their own and other cities.



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